Q. IS AT&T ENTITLED TO PURCHASE UNEs AT UNE RATES IN ORDER TO PROVIDE ITS "COMPETITIVE TANDEM SERVICE"?

A. No. AT&T is not entitled to purchase transport or switching at UNE rates under the local interconnection agreement to provide an access service to IXCs. As noted earlier, this traffic is not subject to § 251(b) of the Act and, thus, should not be a part of this arbitration or local interconnection agreement. Because it is not subject to § 251(b), AT&T is not entitled to receive transport or switching at UNE rates. ILECs are required to unbundle certain aspects of their network, including local switching, to foster competitive local service alternatives to residential and business customers. This unbundling obligation, however, was never meant to allow CLECs who are also IXCs to provide access services with Verizon VA's UNEs at UNE rates. Several state decisions, including one by the Indiana Commission and another by a Wisconsin arbitrator, have addressed this very issue and determined that AT&T is not entitled to use UNEs and shared transport to provide access services to third parties. The Indiana Commission succinctly held that this traffic

> is not local, and thus is appropriately dealt with in federal and state access tariffs, ***not*** interconnection agreements. In addition, AT&T has offered no evidence to support the particular division of access charges that appears in AT&T's proposed subsections 5.2.3 and 5.2.4.[8]

The Indiana Commission also recognized that the issue as framed, "whether AT&T can provide tandem services *using unbundled network elements and interconnection services*

[8] *AT&T Communications of Indiana TCG Indianapolis Petitioner for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Cause No. 40571-INT-03 at 30 (Nov. 20, 2000) (emphasis added).

purchased from Ameritech," did not correspond with the contract language AT&T proposed.[9] Likewise, there is also a disconnect between the issue framed by AT&T in this proceeding and the contract language proposed by AT&T. This is because AT&T is trying to get something it is not entitled to by forcing Verizon to give up its access revenues in a local interconnection agreement.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

[9] *See id.* at 30 n. 15 (emphasis in original).

Declaration of Pete D'Amico

I declare under penalty of perjury that I have reviewed the foregoing panel testimony and that those sections as to which I testified are true and correct.

Executed this 26th day of July, 2001.

Pete D'Amico

Declaration of Donald E. Albert

I declare under penalty of perjury that I have reviewed the foregoing panel testimony and that those sections as to which I testified are true and correct.

Executed this 29th day of July, 2001.

Donald E. Albert

[Insert Name]

1

CURRICULA VITAE FOR NETWORK ARCHITECTURE PANELISTS

I. DONALD E. ALBERT

Mr. Albert earned his Bachelor of Science degree from Virginia Tech in Civil Engineering in 1977. He also has 21 hours completed towards his MBA. Mr. Albert has over 23 years' experience in the telecommunications industry with a strong emphasis on engineering and network planning. In 1977, he began his career with C&P Telephone of Virginia as an Engineer for Operations Planning and Outside Plant Facilities. During his career at C&P, then Bell Atlantic, and now Verizon, Mr. Albert has held a number of positions of increasing responsibility, including Manager of Network Planning, Director of Customer Network Engineering for Virginia, Maryland, West Virginia and Washington D.C., Director of Integrated Network Engineering and Director of Engineering, Planning and Capital Management. In 1997, Mr. Albert assumed his current position as Director of Competitive Local Exchange Carrier Implementation. In this capacity, he provides technical support for issues associated with interconnection agreements with the various CLECs.

II. PETE D'AMICO

Mr. D'Amico earned a Bachelor's degree in Marketing from Indiana University of Pennsylvania. He has more than 17 years of experience in the telecommunications industry as an employee of Verizon and its predecessor companies. He has held his current position as a Senior Specialist in the Interconnection Product Management Group for the past 11 years. His responsibilities include development, implementation and management of interconnection services. Prior to his present position, Mr. D'Amico held various management positions of increasing responsibility developing methods and procedures for carrier access interconnection products and services for wireless carriers.

Intercarrier Comp.

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JUL 31 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Expedited Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration	)	CC Docket No. 00-218
In the Matter of Petition of Cox Virginia Telecom, Inc., etc	)	CC Docket No. 00-249
In the Matter of Petition of AT&T Communications of Virginia Inc., etc	)	CC Docket No.00-251

VERIZON VA'S DIRECT TESTIMONY ON NON-MEDIATION ISSUES
(CATEGORIES I AND III THROUGH VII)

INTERCARRIER COMPENSATION

- STEVEN J. PITTERLE
- PETE D'AMICO

JULY 31, 2001

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EXHIBIT IC-3: ISP RECIPROCAL COMPENSATION LANGUAGE PROPOSED TO AT&T AND WORLDCOM

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH VERIZON-VA AND YOUR BUSINESS ADDRESS.

A. My name is Steven J. Pitterle. I am employed by the Verizon Services Group as Director – Negotiations and my business address is 600 Hidden Ridge Drive, Irving, Texas 75038.

My name is Pete D'Amico. I am a Senior Specialist in Verizon's Interconnection Product Management Group and my business address is 416 7th Avenue, Pittsburgh, Pennsylvania 15219.

Q. PLEASE SUMMARIZE YOUR EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.

A. (**Pitterle**) After graduating from the University of Wisconsin with a Bachelor of Science Degree in Mathematics in 1970, I began working for General Telephone Company of Wisconsin. I held positions of increasing responsibility in Engineering, Service and Regulatory Affairs for GTE before assuming my current position of Negotiations Director in June 1997. (*See Curriculum Vitae* attached hereto as Exhibit IC-1).

(**D'Amico**) I have a Bachelor of Science in Marketing from Indiana University of Pennsylvania. I have been employed at Verizon and its predecessor companies for 17 years, in positions of increasing responsibility, and have been in product management dealing with interconnection arrangements for the last 11 years. (*See Curriculum Vitae* attached hereto as Exhibit IC-1).

Q. WHAT ARE YOUR RESPONSIBILITIES IN YOUR CURRENT POSITION?

A. (**Pitterle**) My principal responsibility is to oversee Verizon's competitive local exchange carrier ("CLEC") interconnection negotiation activities, as specified by §§ 251 and 252 of the Telecommunications Act of 1996, for defined areas within Verizon. I also assist in the development of policies relating to interconnection matters.

(D'Amico) My responsibilities include development, implementation, and product management of interconnection services.

Q. HAVE YOU EVER TESTIFIED BEFORE?

A. (**Pitterle**) Yes, I have testified in, or submitted testimony for, various interconnection proceedings in New Mexico, Florida, Texas and Wisconsin.

(**D'Amico**) Yes. I testified in the Focal Arbitrations in the second quarter of 2000 in Pennsylvania and New Jersey and in the Pennsylvania § 271 hearings in the first quarter of this year.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of our testimony is to explain Verizon VA's position on various aspects of Intercarrier Compensation, including call jurisdiction, reciprocal compensation, meet point traffic and tandem rates. Specifically, we will address Issues I-6, V-8, VII-8 and III-5.

II. <u>ISSUE I-5: ISP RECIPROCAL COMPENSATION</u>

Q. PLEASE DESCRIBE THE HISTORY OF THIS ISSUE.

A. Initially, the Petitioners articulated this issue as involving the question whether the CLECs were entitled to recover reciprocal compensation for terminating ISP-bound traffic originated by Verizon VA end users. After the CLECs filed their Petitions for Arbitration, however, the Commission released, on April 27, 2001, its *ISP Remand Order*. In that *Order*, the Commission (i) "affirm[ed] our conclusion in the *Declaratory Ruling* that ISP-bound traffic is not subject to the reciprocal compensation obligations of section 251(b);" (ii) determined "that inter-carrier compensation for ISP-bound traffic is within the jurisdiction of this Commission under Section 201 of the Act;" (iii) established a new federal intercarrier compensation scheme for Internet traffic; and (iv) preempted states from imposing a different scheme in future arbitration proceedings.

After the release of the *ISP Remand Order*, Verizon VA filed a Motion to Dismiss several issues in this proceeding, including Issue I-5. The Commission heard argument on that Motion at a July 10 Status Conference and, thereafter, ordered that the Parties narrow and restate "implementation issues growing out of" Issue I-5. Per the Commission's Order, each CLEC filed a proposed re-statement of the implementation issues.

Q. DID VERIZON VA RESPOND?

A. Yes. In a July 18 letter to the Petitioners as well as a July 19 letter to the Commission, Verizon VA agreed that several of the implementation issues stated by the CLECs were appropriate for arbitration, but only after the Parties had exhausted reasonable efforts to negotiate acceptable language. Therefore, Verizon VA proposed that the ISP Reciprocal Compensation implementation issues be placed on the list of issues to be addressed in supervised mediation.

Q. HAVE THE PARTIES SCHEDULED THE ISSUE FOR SUPERVISED MEDIATION WITH THE COMMISSION?

A. No. The Parties were unable to reach a consensus on whether the issue should be considered in the supervised mediation process. Nonetheless, the Parties have continued their discussions regarding the remaining implementation issues.

Q. HOW DOES VERIZON VA PROPOSE TO ADDRESS THE IMPLEMENTATION OF THE ISP REMAND ORDER IN ITS RESPECTIVE INTERCONNECTION AGREEMENTS?

A. Verizon VA's proposals to address the implementation of the *ISP Remand Order* in its respective interconnection agreements are attached hereto as Exhibit IC-2 and 3. The variations in the contract language reflect changes made as a result on ongoing negotiations with the Petitioners. The attached may be revised as a result of ongoing discussions with Petitioners.

III. <u>ISSUE I-6: THE JURISDICTION OF VFX TRAFFIC</u>

Q. BRIEFLY DESCRIBE THE DISPUTE REGARDING THIS ISSUE.

A. This issue involves a dispute over the jurisdiction of Virtual Foreign Exchange ("VFX") traffic. Specifically, the Parties disagree over the manner in which a VFX call is determined to be local, and thus eligible for reciprocal compensation, or interexchange in nature.

Q. WHAT IS VERIZON VA'S POSITION REGARDING ISSUE I-6?

A. The *physical locations* of the caller and the called party must be used to determine whether a call is eligible for reciprocal compensation under § 251(b)(5) of the Act. The telephone number ("NPA-NXX") that a LEC chooses to assign to its customer cannot determine that issue.

Q. WORLDCOM AND COX PROPOSE THAT THE JURISDICTION OF A CALL BE DETERMINED BY THE NPA-NXXs OF THE CALLING AND CALLED NUMBERS. PLEASE EXPLAIN WHY VERIZON VA OPPOSES THAT PROPOSAL.

A. WorldCom and Cox are trying to legitimize a regulatory gaming scheme, employed by some CLECs, in which interexchange toll telecommunications traffic is disguised as local exchange traffic in order for the CLEC to avoid paying originating access charges and, instead, collect reciprocal compensation. This scheme deprives Verizon VA of legitimate end-user toll revenue or originating access charge revenue that should be assessed on this traffic. In addition, these schemes usually require Verizon VA to bear the costs of transporting the traffic to the CLEC switches. WorldCom and Cox accomplish this scheme by obtaining exchange codes from the North American Numbering Plan Administrator ("NANPA") that they assign to rate centers in which they have no customers or facilities. WorldCom and Cox then assign these telephone numbers to their customers who are located in distant rate centers, usually near or collocated at their switches and outside the local calling area of the originating caller. The CLECs refer to these as VFX numbers or arrangements.

Q. CAN YOU PROVIDE US WITH AN EXAMPLE OF A VFX ARRANGEMENT?

A. Yes. For example, a CLEC might assign a Staunton telephone number to its own customer located at or near the CLEC's switch in Roanoke. The CLEC would do so without establishing a physical interconnection with Verizon VA at the Staunton end office or serving tandem and without actually having any customers located in Staunton. When a Verizon VA customer in Staunton calls that CLEC customer's assigned telephone number, the call looks like a local call to both the Staunton calling party and to the Verizon VA originating switch. In fact, however, it is an interexchange (*i.e.*, toll) call for which Verizon VA would collect tariffed toll charges from its Staunton customer, if Verizon VA handled the entire call, or originating access charges from another carrier, if that carrier completed the call. In the VFX scenario described above, however, Verizon VA incurs the transport costs to complete the call to Roanoke and collects neither toll nor access charges. In fact, Verizon VA would be assessed reciprocal compensation charges, since the call is disguised as a local call.

Q. ARE THERE ANY SOLUTIONS TO THIS PROBLEM THAT VERIZON VA WOULD FIND ACCEPTABLE?

A. Yes. Verizon VA does offer dedicated FX Service in its tariff that would allow the Roanoke CLEC customer to order a direct facility to the Staunton end office, thereby creating, in essence, an extended local loop.

Q. WHAT ARE THE CONSEQUENCES OF THE VFX SCHEME TO VERIZON VA?

A. Using the example above, there are three consequences of this regulatory gaming scheme. First, Verizon VA incurs toll transport costs when it hauls the call to

Roanoke. Verizon VA is unable to bill these toll charges to the originating customer in Staunton for making the interexchange call, because it appears, and is rated, as a local call, covered under the customer's flat rated local service. Verizon VA's switch relies on the NXX assigned the terminating user to rate calls and, therefore, is unable to distinguish between these fake local calls and true local calls.

Second, the CLEC is requiring Verizon VA to transport the interexchange call to the CLEC location in Roanoke, without network interconnection arrangements in place where the CLEC customer, particularly in the case of an ISP, is often either collocated at, or not far from, the CLEC's switch. With the terminating end-user as a CLEC customer, Verizon VA is unable to charge that customer for the cost of interexchange transport, as it would do in a conventional FX arrangement. Thus, Verizon VA ends up absorbing these transport calls with no incremental revenue offset.

Last, but certainly not least, the CLEC then seeks to bill Verizon VA reciprocal compensation for terminating what is disguised as a local call when, in fact, it is an interexchange call for which it should be paying originating access to Verizon VA. The CLEC claims that the call is local, based on the identified NPA-NXX's of the calling and called parties rather than the physical location of those parties.

This scheme of manipulating number assignments, where the NPA-NXX has no geographic relevance to the customer's physical location, allows the CLECs to provide their customers with extensive virtual local networks and collect reciprocal compensation revenues. Verizon VA, on the other hand, shoulders the entire cost of transporting these interexchange calls and is charged for terminating the calls to boot. Historically, this problem has been further compounded by the fact that the customers to whom the CLECs often assign the virtual NXX's are ISPs or other convergent traffic customers who generate enormous amounts of one-way, incoming traffic.

This blatant arbitrage of the number assignment system disassociates the true costs of providing these types of arrangements from the revenues the services generate. In today's market, the industry seeks to utilize telephone numbering resources in the most efficient manner possible. Schemes such as this one, driven by an inequitable distribution of the respective costs and benefits, will inevitably lead to misuse and misassignment of valuable numbering resources. Thus, the Commission cannot allow this situation to continue without the necessary adjustments to the economic incentives and compensation mechanisms.

Q. HAVE ANY STATE COMMISSIONS RULED ON THIS ISSUE?

A. Yes. In several states, this issue has been addressed in some fashion by the Commissions. These states have all have recognized the inequities involved. To date, no state has agreed with the CLEC's position.

Q. WHAT ARE THE STATE COMMISSIONS' FINDINGS?

A. In a proceeding in Maine involving Brooks Fiber/WorldCom's use of 54 of the 55 codes assigned to it as virtual NXXs, the Public Utilities Commission ("PUC") ruled that calls to virtual NXXs are not local but, rather, are interexchange. The Maine PUC found that Brooks had no customers and no facilities (*i.e.*, loops) to serve customers outside of the Portland, Maine exchange, in which its switch and its ISP customers were located. It found that the only customers located in the 54 other exchanges were actually Verizon's customers calling Brooks' ISPs. As a result, it ordered Brooks to return all of its codes except the one assigned to the Portland exchange. *See* June 30, 2000 and November 14, 2000 Orders in Maine Docket Nos. 98-758 and 99-597.

Recently, the Connecticut Department of Public Utility Control ("DPUC") came to the same conclusion in a similar virtual FX case. In that case, the DPUC stated:

> All CLECs have been afforded the opportunity to establish their own local calling areas (LCAs) in Connecticut. Nevertheless, most if not all CLECs have not taken advantage of that option and instead, have chosen to mirror the Telco's LCAs In the opinion of the Department, these CLECs have made a decision to mirror the Telco's LCAs and offer their subscribers large local calling areas via FX service. The Department takes no issue with the carrier's use of FX service in this manner. However, **the Department finds the carriers' requests for compensation in these cases disingenuous at best** in light of the FCC and Department rulings (including defining their own local calling areas) and their ability to deploy facilities to make these calls truly local and eligible for mutual compensation. **The purpose of mutual compensation is to compensate the carrier for the cost of terminating a local call and since these calls are not local, they will not be eligible for mutual compensation.** Therefore, the Department will require in those cases where a CLEC offering FX service which chooses to mirror the Telco's LCA, that such FX service calls not be eligible

> for compensation. **Rather, this interexchange traffic will be subject to the payment of originating switched access charges to the ILEC, in this case the Telco.**

See Connecticut DPU Draft Decision in Docket No. 01-01-29 at 22, issued March 19, 2001. (Emphasis added). In fact, the DPUC ordered CLECs to provide all data necessary for the calculation of a true-up. The true-up will not only refund the reciprocal compensation paid on virtual FX arrangements but will also allow the Telco to bill originating access charges.

In another ruling, the Public Service Commission ("PSC") of Missouri recently decided that calls originated by Southwestern Bell Telephone Company's ("SBC") customers to AT&T Communications of the Southwest, Inc.'s virtual FX customers should be considered long distance and, therefore, not subject to reciprocal compensation. AT&T had asked the PSC to categorize such traffic as local. *See* Missouri PSC Decision in Docket No. TO-2001-455 Order dated June 14, 2001.

In the Texas generic SBC arbitration, the Texas PUC ruled that reciprocal compensation only applies to traffic within originating customer local calling area. *See* Texas PUC Docket No. 21982 Order dated July 13, 2000.

The North Carolina PUC recently issued an arbitration ruling requiring AT&T to compensate Bell South for transport that extend beyond the Bell South local calling area back to the point of interconnection ("POI"). *See* North Carolina Utilities Commission, Docket No. P-140 Sub 73 and P-646 Sub 7.

Finally, and most recently, the Georgia PSC concluded earlier this month that foreign exchange traffic is long distance and, therefore, subject to access charges. *See* Georgia Public Service Commission Docket No. 13542-U.

Q. ARE THERE ANY OTHER STATE PROCEEDINGS CURRENTLY UNDERWAY THAT WILL ADDRESS THESE ISSUES?

A. Yes. In Florida, the PUC included the issues pertaining to intercarrier compensation for virtual NXX's in its Docket No. 000075-TP Phase II. Hearings on these issues were to be held in July 2001.

Q. WHAT DOES VERIZON VA PROPOSE THAT THE COMMISSION DO WITH RESPECT TO THIS ISSUE IN THIS DOCKET?

A. Verizon VA urges the Commission to reject the CLEC's proposals that would authorize this unfair practice. Instead, the Commission should find in this arbitration that the actual location of the calling and called parties, not the telephone number that a LEC chooses to assign to its customer, determine whether a directly dialed seven or ten digit call is interexchange traffic or local exchange traffic. Verizon VA should assess originating access charges for these interexchange calls. Alternatively, the terminating carrier should be required to pay the transport costs incurred by Verizon VA in carrying this interexchange traffic to the terminating carrier's interconnection point. At a minimum, however, the Commission should bar the assessment of reciprocal compensation for this interexchange traffic, unless and until this Commission decides the issue in its pending NPRM.

Q. HAS VERIZON VA PROPOSED INTERCONNECTION AGREEMENT LANGUAGE WHICH ADDRESSES THIS POINT?

A. Yes. The Commission should adopt the language in Verizon's Model Interconnection Agreement: § 2.58 of the Terms and Conditions Section, defining "Local Traffic," and §7 of the Interconnection Attachment, regarding Reciprocal Compensation Arrangements.

IV. <u>ISSUE V-8: MEET POINT TRAFFIC</u>

Q. PLEASE DESCRIBE THE DISPUTE IN ISSUE V-8.

A. The dispute over this issue involves the distinction between a meet point billing arrangement, which involves the interconnection of two LEC networks in the joint provisioning of access traffic to an IXC, and the interconnection of a LEC's network with a competitive access tandem provider's network.

Q. WHAT IS VERIZON VA'S POSITION REGARDING ISSUE V-8?

A. Verizon VA is entitled to access charge compensation when Verizon VA interconnects with AT&T serving as the competitive access tandem provider ("CAP") for interexchange carriers.

Q. DOES VERIZON VA AGREE WITH AT&T'S PROPOSED LANGUAGE ON THIS ISSUE?

A. No. Verizon does not agree to the inclusion of AT&T's proposed language. There is a major difference in the rules and application of access charges between, on the one hand, a meet-point billing arrangement involving the interconnection of two LEC networks in the joint provisioning of access traffic to an IXC, and, on the other hand, the interconnection of a LEC's network with a competitive access tandem provider's network. AT&T either misunderstands this difference or is attempting to obscure it.

Q. COULD YOU PLEASE EXPLAIN IN MORE DETAIL THE DIFFERENCES?

A. Yes. In the former case, two LEC's are involved in the joint provisioning of switched access service to an IXC. In such situations, one LEC has *chosen* to have its end office(s) subtend the other LEC's access tandem for the delivery of switched access traffic to and from IXCs to the subtending LEC's end users. The joint provisioning comes from the fact that the two LECs each provide a portion of the access service to an IXC, and absent that arrangement, the IXC would not be able to provide service to the subtending LEC's end users without establishing a direct connection to each of the subtending LEC's end offices. The choice of whether to subtend another LEC's access tandem is up to each LEC. Generally, if not exclusively, the reasons a LEC chooses to have its end office(s) subtend the tandem of another LEC are either the first LEC does not have a tandem or, because of location, it would not be economical to have the end office subtend its own tandem.

In the case of a competitive access tandem provider, an IXC chooses to access the LEC's network via a CAP, rather than connecting through the LEC's tandem. This is not a joint provisioning of access arrangement as with two LECs; it is the interconnection of a LEC's network with a CAP's interexchange network. Unlike the former arrangement, in this situation one LEC (*e.g.*, Verizon VA) has the ability to provide service to the IXC for traffic to and from its end users, but the IXC has chosen to use a CAP rather than the LEC to provide a portion of the interexchange access service. While this is an acceptable arrangement, it involves no LEC-to-LEC meet-point billing. Rather, in this situation, Verizon VA would assess the appropriate access charges to the CAP, rather than to the IXC, for the access services used in interconnecting the CAP's network with Verizon VA's network.